



THE INTERIM

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IMPORTANT DATES FOR THE 2007 LEGISLATURE

No time for a vacation...Following the Nov. 7 election, the pace of activity around the Capitol will pickup with party caucuses, new legislator orientation, rules committees, and committee chair training, and that's before the session begins. The schedule for presession events and post-swearing-in activities, including a civics education presentation and a law school for legislators, is shown in the table below:

Senate and House Party Caucuses	Monday, Nov. 27, at noon
New Legislator Orientation	Tuesday, Nov. 28, all day; and Wednesday, Nov. 29, all day
Rules Committees, Committee Chair Training	Monday, Dec. 11, morning
Start of Session, Swearing In	Wednesday, Jan. 3, 2007, at noon
Civics Education Presentation and Legislative Rules Workshop	Wednesday, Jan. 3, 2007, afternoon
Law School for Legislators	Thursday, Jan. 4, 2007, morning

Senate and House party caucuses...Each chamber of the Legislature will hold party caucuses to elect officers and conduct other presession business.

New legislator orientation...The Legislative Council is again sponsoring an orientation for new legislators. The two-day event is packed with plenary sessions on pay and benefits, facilities, and staff. During breakout sessions, new legislators will learn about the three legislative divisions that support the Legislature, bill mechanics, budgeting, lobbying and lobbyists, and responding to constituent requests. There will be a mock committee hearing and floor session to help new lawmakers hit the ground running on Jan. 3. (New legislators will also have an opportunity to get a flu shot during orientation.)

Rules committees and committee chair training...The members of the Joint, Senate, and House Rules Committees will meet, and there will also be committee chair training on committee procedures, rules, and effective techniques for presiding over a legislative committee for newly appointed committee chairs.

Civics education and legislative rules workshop...This half-day program, sponsored by the Legislative Council, provides continuing education for all legislators, including a presentation by Alan Rosenthal, of the Eagleton Institute of Politics at Rutgers University, on the civics education responsibilities of legislators and a presentation by Greg Petesch, Legal Services Director, on selected Joint, Senate, and House rules, as well as Mason's Manual of Legislative Procedure.

Law School for Legislators...This half-day event is open to all legislators and is intended to give legislators a nutshell look at legal terminology, reasoning, and application, as well as pressing legal issues facing Montana.

THE INTERIM

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THE INTERIM is a monthly newsletter that reports on the interim activities of legislative committees, including the Legislative Council, the Environmental Quality Council, the Legislative Finance Committee, the Legislative Audit Committee, and interim legislative committees and subcommittees staffed by the Legislative Services Division. Information about the committees, including meeting schedules, agendas, and reports, is found at <http://www.leg.mt.gov>. Follow the "Committees" link or the "Interims" link to the relevant committee. The newsletter is posted on the legislative branch website on the first of each month (follow the "Publications" link).

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Division**

More information on the way...After the election, all legislators will receive additional information about these events. New legislators will be contacted about attending the new legislator orientation. If you have any questions, please call Susan Byorth Fox, executive director of the Legislative Services Division, at (406) 444-3066 or send an e-mail message to sfox@mt.gov.

REVENUE AND TRANSPORTATION COMMITTEE

Committee to Adopt Revenue Estimates in November...The Revenue and Transportation Committee will meet Nov. 15 in Room 137 of the Capitol. (The meeting had been scheduled for Nov. 14.) The primary purpose of the meeting will be to adopt the initial revenue estimates for the 2007 legislative session. Paul Polzin, director of the Bureau of Business and Economic Research at the University of Montana; Larry Swanson, director of the Center for the Rocky Mountain West at UM, and Myles Watts, professor of agricultural economics at Montana State University, will discuss Montana's economic outlook.

Other agenda items include working on a bill draft to revise and clarify Legislative Fiscal Division and the governor's budget office access to tax information and assigning sponsors for three committee bills (allowing the committee to revise revenue estimates for a special session (LC0195), clarifying the distribution of revenue from the fee in lieu of tax on heavy trucks (LC0196), and clarifying the allocation of certain driver's license fees (LC0197)).

If you want more information about the committee, contact Jeff Martin, committee staff, at (406) 444-3595 or jmartin@mt.gov.

TRACKING THE 2007 LEGISLATIVE SESSION ON LINE

Training Offered to State Agencies and the Public...The 60th regular session of the Montana Legislature begins Wednesday, Jan. 3, 2007. The Legislative Services Division is offering demonstrations of the Legislative Automated Workflow System (LAWS) to help state agencies and the public track legislation during the session. LAWS provides Internet access to timely legislative information before, during, and after a session, including up-to-date bill status, bill text, hearing schedules, agendas, journals, information on legislators, and more.

The demonstrations are scheduled for Dec. 8 and 20 and will be held in Room 102 of the Capitol. The Dec. 8 demonstration will be from 10 a.m. to noon, and the Dec. 20 demonstration will be from 2 p.m. to 4 p.m. The demonstrations are identical, so you may attend either one.

The LAWS website address for the 2007 legislative

session is <http://leg.mt.gov/laws.htm>.

For more information contact Jim Gordon at (406) 444-2493 or jgordon@mt.gov.

STATE ADMINISTRATION AND VETERANS' AFFAIRS COMMITTEE

Committee to meet in November...The State Administration and Veterans' Affairs Committee will meet on Tuesday and Wednesday, Nov. 28-29 in Room 152 of the state Capitol.

Committee to review legislative proposals...Section 5-5-228, MCA, requires the committee to review legislative proposals that deal with some aspect of public employee retirement. Based on the review, the committee will prepare a report on the proposals that are introduced for legislative consideration. The report will include an analysis of each proposal and the committee's recommendation to adopt or reject the proposal.

At the June 22 committee meeting, state agencies presented several retirement system-related proposals. The committee authorized legislative staff to formally initiate the bill drafting process for the proposals. In addition, holdover senators and unopposed legislators have submitted 20 bill draft requests on the retirement systems.

Between now and the November meeting, committee staff will work with state agencies and legislators to develop the proposals into draft legislation. Once the draft bills are drafted satisfactorily, the agencies will obtain a specific legislator-sponsor for each draft. All agency bills must be preintroduced by Dec. 26 to allow the Legislature to consider the bills as early in the regular session as possible.

A list of all of the proposals submitted by state agencies, legislators, and stakeholders are available on the LAWS database at <http://leg.mt.gov/laws.htm>. Click on "Bill Information" and then on the "Subject" search option; either type in "Retirement" or scroll down to "Retirement", click on it and then on "Find".

For more information...A tentative agenda for the meeting will be posted to the committee's webpage as soon as it is available and will be kept updated as the meeting date approaches. For additional information, contact Dave Bohyer, committee staff, at (406) 444-3064 or dbohyer@mt.gov.

LEGISLATIVE FINANCE COMMITTEE

LFC October Meeting...The Legislative Finance Committee met on Oct. 12 and 13. The agenda and links to the reports presented at the meeting are available on the Legislative Fiscal Division website at <http://www.leg.mt.gov/css/fiscal/default.asp>. For more information, contact Clayton Schenck at cschenck@mt.gov or (406) 444-2986. The

committee heard reports on various policy issues and fiscal concerns. Key reports and outcomes are described below.

Fire Cost Report and Fire Funding...The rains came and the fire season ended. To date, the state has incurred costs of \$59.8 million of which \$23.2 is billable to federal agencies for support, leaving the net costs to the state at \$36.6 million. The Department of Natural Resources and Conservation (DNRC) has accessed \$13 million from the governor's emergency fund and is in the process of getting a general fund loan pledging the federal repayments as collateral in order to continue paying for costs as they are invoiced to DNRC. These two actions should enable DNRC to operate until January at which time they can request a supplemental appropriation to cover the cost of fire season.

Since Montana does not budget for fire suppression and the current situation leaves DNRC in the position of vulnerability due to the lack of budget authority, the Legislative Finance Committee addressed potential solutions. The committee will review the draft legislation regarding the options in November. The options include:

- a one-time only biennial restricted appropriation of \$26 million for fire suppression;
- a statutory appropriation of \$26 million for fire suppression;
- the creation of a state special revenue fund for fire suppression funds established with a general fund transfer and accessible through the budget amendment process;
- increasing the governor's emergency fund to \$25 million.

For more information, contact Barb Smith at basmith@mt.gov or at (406) 444-5347.

General Fund Status: FY 2006 Actual and FY 2007 Projected...The preliminary general fund account unreserved, undesignated ending balance for FY 2006 is \$422.9 million, or \$195.1 million above the level anticipated by the 59th Legislature at end of the December 2005 special session. The projected ending fund balance for the 2007 biennium is currently estimated at \$509 million. This balance incorporates actual revenue and disbursement data for FY 2006 and FY 2007 disbursement estimates as budgeted by the Legislature in the 2005 regular session and the December 2005 special session. In addition, this balance includes an estimate of additional FY 2007 revenue above the HJ 1 special session revenue estimates. The balance also incorporates potential emergency/supplemental appropriations of \$43 million for wildfire costs, \$25 million for Department of Corrections, \$9.3 million for Public Health and Human Services, and \$5.8 million for Judiciary/Public Defender.

For more information, contact Terry Johnson at tjohnson@mt.gov or at (406) 444-2952.

Montana Economic Outlook...Dr. Paul Polzin of the Bureau of Business and Economic Research at the University of Montana presented information on the economic outlook for Montana. Dr. Polzin focus was on the natural resource boom occurring in Montana and the positive impact this is having on Montana's economy. His revised forecasts through 2009 show annual growth in Montana's economy in excess of 4 percent a year. He also compared historical natural resource driven growth patterns with current trends. His conclusion was that the current growth trends are "demand" driven precipitated by GDP growth in developing countries like China and India. Historical growth patterns however, were driven by "supply" disruptions that disappeared in the short-term and were not sustainable.

The "Big Picture Report"...A brighter general fund financial picture is primarily due to strong growth in individual and corporate income tax and oil and gas tax revenues during the fiscal years 2004 through 2006. The projected present law ending general fund balance for the 2009 biennium is \$902.7 million without reserves, and is reduced to \$751.1 million when allowing for a 3 percent ending fund balance reserve and allowances for fire suppression and emergency fund costs. These estimates do not include any funding for new initiatives or liabilities the Legislature will consider, including an employee pay plan, unfunded liabilities in the retirement plans, deferred maintenance deficiencies, and a myriad of other funding requests. It is emphasized that this is a conservative and responsible estimate for planning purposes, but as more information becomes available before the 2007 session, the available balance could change significantly. Many potential issues could significantly reduce, or eliminate, the funds available for the 2009 biennium budget prioritization process. In addition, the Legislature needs to keep in mind the objective of maintaining a structurally balanced general fund. If structural balance is to be achieved, it is important to note that not all of the projected balance would be available for initiatives and funding of an ongoing nature. Only \$350.5 million would be available for ongoing expenditures, while \$400.5 million should either be held in reserve or used for one-time expenditures.

For more information, contact Terry Johnson at tjohnson@mt.gov or at (406) 444-2952.

Pension Plans Unfunded Liability...The 2006 actuarial valuations for the four plans, with unfunded actuarially accrued liability (UAAL) that cannot be amortized within the required 30-year period, have been completed. Each valuation shows significant improvement in the condition of these plans over the previous year. Overall, the UAAL drops from \$1.46 billion to \$1.34 billion. For the Public Employees' Retirement System (PERS), the UAAL drops from \$541 million to \$460 million. The Teachers' Retirement system saw a reduction from \$903 million to \$863 million. As another indicator, if the employer contribution rate were to be increased to solve the problem, PERS rates would require an additional 1.01 percent instead of the 1.58 percent that was indicated a year ago. TRS would require an additional 3.38

percent instead of 4.06 percent. The Sheriffs' Retirement System and Game Warden and Peace Officers' Retirement Systems had similar improvements in plan conditions.

For further information, contact Jon Moe at jonmoe@mt.gov or at (406) 444-4581.

Resource Indemnity Trust Bill Drafts...The 2005 Legislature approved HJR 36 creating a study of the resource indemnity trust (RIT) and related accounts to address issues of cross-competition, cash flow, and appropriate use of funds. A subcommittee was formed to study the program and provide recommendations. The recommendations were approved at the June 2006 meeting, and legislation implementing the committee's recommendation was drafted. The committee approved LC0147, an act generally revising the resource indemnity trust, and LC0148, an act revising the future fisheries reporting process.

For more information, contact Barb Smith at basmith@mt.gov or at (406) 444-5347.

Long-Range Building Cash Program Funding...The LFC finished work on inadequate funding of the of the Long-Range Building "Cash" Program (LRBP) at the October meeting with the approval of one committee bill draft. The LRBP has experienced declining revenues for two decades, leaving the major capital maintenance program funded at only 20 percent of the industry recommended amount after having created a deferred maintenance backlog estimated at \$240 million. LC 184 would provide new funding for the program through a rate-based rental surcharge, appropriated to the agencies based on building type and square footage of occupancy. The LRBP would then function as an internal service by charging the agencies those rates for major building maintenance. If approved by the Legislature in the next session, the funding proposal would end the LRBP funding inadequacy when it becomes effective in the 2011 biennium.

For more information, contact Cathy Duncan at cduncan@mt.gov or at (406) 444-4580.

Budget Stabilization Account...The LFC approved a committee bill to establish a budget stabilization account, or "rainy day fund". Under LC0562, if enacted, the account would be capped at 9 percent of appropriations and transfers from the general fund for the previous biennium, but the mechanism for transferring funds to the new account from excess fund balance of the general fund would not begin until after July 1, 2009. The Legislature, however, could transfer funds to the account in the bill if it chooses to do so by adding a transfer clause. Spending from the fund by the governor could occur when a revenue shortfall causes the projected fund balance to drop below 1 percent (an addition to 17-7-140, MCA). Any other spending would have to be appropriated by the Legislature.

For further information, contact Jon Moe at jonmoe@mt.gov or at (406) 444-4581.

Community College Interim Funding Study Results

in Bill Draft...The LFC approved LC0179 as a committee bill request for the 2007 session. The proposal would revise the statutory funding formula that drives the biennial general fund appropriation for Montana's three community colleges. The bill would amend statute (20-15-310 and 20-15-312, MCA) in order to rebase the "cost of education factor" in the formula and add a fixed/variable cost calculation to the formula. The proposed statute change was a recommendation that came out of the interim study by the LFC, as directed by HB 2 language in the 2005 session.

For more information about the community college funding study, contact Alan Peura at apeura@mt.gov or at (406) 444-5387.

LFC Discusses Concept of Companion Bill for HB 2...The LFC members heard a report suggesting that a companion bill to HB 2, the general appropriations bill, could be used to help implement performance and accountability measures through the budget process, in particular to address the Montana university system. The discussion was brought to the LFC from an interim project completed by the Postsecondary Education Policy and Budget (PEPB) subcommittee of the Education and Local Government Committee. That project created a set of "Shared Policy Goals and Accountability Measures" that were agreed to by the legislative committee and the Board of Regents.

Building from that shared, joint document, the project crafted a series of measurable budget decision packages that set performance objectives and "deliverables" for the university system to achieve in return for state funding. In order to make these deliverables operational through the budget, rather than try to use language in HB 2, the PEPB considered, at the recommendation of legislative legal staff, the concept of a companion bill to HB 2. At the LFC meeting it was also suggested that a companion bill could help address other concerns about the use of language in HB 2. The LFC will be considering whether to recommend the use of a companion bill for accountability measures and other HB 2 language at their meeting in November.

For questions about the companion bill and its relationship to the university system budget, contact PEPB subcommittee staff Alan Peura at the Legislative Fiscal Division at apeura@mt.gov or (406) 444-5387.

Performance Management Tools...At the June 2005 meeting of the LFC, the committee requested the development of performance management tools that would assist the Legislature in measuring agency and/or program progress. The committee heard final reports on three tools:

- **New Evaluation Process** – In the budget request are present law adjustments that significantly expand state government and new proposals that add new functions. To provide extended information, a series of criteria was developed for agencies to address as part of the budgeting process. This included a justification for the request, goals, performance criteria (objectives), milestones, FTE, funding, obstacles and risks. The LFD will provide this

information in the budget analysis. The information can be used to condition appropriations.

- Getting to Performance – A short guide written for legislators regarding questioning to obtain performance information during the appropriations process.
- LFD Reporting Process – A negotiated process with agencies to utilize a data exchange process which allows the LFD to summarize the information in a two-page management level report regarding a specific issue. The report provides the committee with a “snapshot” of progress during the interim.

A fourth tool is the standardized format for agency presentations to appropriations subcommittees, otherwise known as “the template”. The committee backed this project and will finalize the use of the product during the November meeting. The committee also agreed that legislator training should be made available to educate legislators regarding the tools, their use and limitations. That training is currently being scheduled and will also be discussed in November.

For more information, contact Barb Smith at basmith@mt.gov or at (406) 444-5347.

Reliance on Federal Funds... The committee heard the last of three reports on Montana’s dependence on federal funds, and options to address the growing potential for instability in the amount of federal funds received due to federal budget deficits. With information the key to any strategy for dealing with adverse changes in federal funding, the committee was given a guided tour of the federal funds database created for this project. The database contains information on the largest 85 federal funds, and includes information on purposes, persons served, requirements for receipt of the funds, and the outlook for future federal action. The database, which will be updated by Legislative Fiscal Division staff at least every two years, can be used alone or in combination with other information to proactively address changes in the availability of federal funding. LFD staff will create a manual for use in the 2007 legislative session outlining legislative options for addressing federal funds changes, and staff will continue to highlight federal funds danger areas in the budget analysis for presentation to the 2007 Legislature.

For more information, contact Taryn Purdy at tpurdy@mt.gov or at (406) 444-5383.

DPHHS: Early Intervention and Prevention... The LFC heard a report about a National Conference of State Legislatures (NCSL) seminar – “Using Limited Health Dollars Wisely—What States Can Do to Create the Health System They Want”. A Montana team, including four legislators-- Sens. John Cobb and Greg Lind and Reps. Teresa Henry and Bill Jones--as well as executive, legislative, and State Auditor staff attended the June seminar. At the seminar, the Montana team adopted a goal to promote a prevention health agenda in the state with an emphasis on interventions that target risk factors in the earliest stages of life. The team

also adopted a plan and strategies to implement the goal.

The seminar presentations included information on the benefits and costs of early intervention for at-risk infants and toddlers between the ages of 0 and 2. The most significant risk factors for this group are poverty, homelessness, substance abuse, and domestic violence. New research has shown that much of the brain’s architecture or “hard wiring” is formed by age 3, so early intervention can have a significant, positive effect on a child’s development and future.

There are several evidence-based early intervention programs that have been evaluated over the last 20 to 60 years. Two programs specifically highlighted at the seminar involved enrollment in quality child care and preschools for infants and toddlers, coupled with home visiting programs and case management to help at risk families access needed services. The results of studies of the programs discussed at the seminar showed returns ranging from a low of \$4 benefit for every \$1 spent to \$17 in benefits for every \$1 spent. The types of outcomes measured for each child receiving services compared to children in a group that did not receive the services included: involvement with the criminal justice system, completion of high school, earnings, and home ownership.

Staff has continued to research and develop options for consideration by the legislators on the team. Staff compiled a list of early intervention services currently funded in Montana including: health care for low-income pregnant women and children, child care assistance, nutrition programs, home visiting services (the Montana Initiative for the Abatement of Mortality in Infants), services for toddlers and children with a developmental delay provided by contracts and schools, grants to local domestic violence programs, and federally funded housing assistance. Staff also interviewed persons about service gaps. A summary of services and service gaps is included in the staff report and can be viewed on line at <http://leg.mt.gov/css/fiscal/reports>.

Finally, the report summarized preliminary policy options that could be considered including: expanding Medicaid eligibility for children and pregnant women, expanding or enhancing MIAMI, augmenting programs for toddlers and young children with a developmental delay, and increasing prevention services for at-risk children.

The next step will be for the Montana legislative team to review the information and evaluate options to determine what actions they may want to take. Depending on their decisions, they may make recommendations to the 2007 Legislature.

For more information, contact Lois Steinbeck at lsteinbeck@mt.gov or at (406) 444-5391.

Final meeting in November... The LFC is tentatively scheduled to meet Nov. 28. This will be the last committee meeting before the 2007 session. The key items for this meeting are an update of the revenue estimates and recommendations by the LFC to the House Appropriations and Senate Finance and Claims Committees that provide guidance and direction to the appropriation subcommittees on a wide range of budget components and activities.

For further information, contact Clayton Schenck at cschenck@mt.gov or at (406) 444-2986.

LEGISLATIVE REFERENCE CENTER

What's your generation? It makes a difference in the Legislature and beyond... Most of today's workplaces, including the Montana Legislature, have four different generations working together. "Yeah, so," you ask? Well, your work style, your attention span, and even your ability to get along with others, is determined in part by your generation. Want to learn more? Read on:

Veterans (1922-1946)--52 million (5% of the current workforce). This first group is generally known as decision-makers, rainmakers, and power players. The pivotal events shaping their upbringing include: Prohibition, the Wall Street Crash of 1929, the Great Depression, the New Deal, and the development of radio. Their work style is characterized by loyalty, dependability, hard work, and sacrifice for the employer. They are often not adaptable to change, prefer a structured environment, and a formal chain of command.

Baby Boomers (1946-1964) 73 million (45% of the workforce). After American soldiers returned home from World War II in 1946, the United States experienced an explosion of births (hence the name baby boom) that continued for the next 18 years, when the birth rate began to drop. Since baby boomers make up such a sizable portion of the consuming public, their spending habits and lifestyles have a powerful influence on the economy. Their work ethic is governed by the motto "live to work." Team building and people skills are their strong suit as is their service-oriented approach to employment. Events shaping their lives were working women, television, and rock and roll.

Gen X/Xers/Nexus (1964-1984) 70 million (40% of the workforce). This generation is the link between the Industrial Age and the Information Age. They are usually heavy library users and are characterized as having a high affinity for technology and as being computer and Internet proficient, skeptical about advertising claims, fast spending, and more impressed by personal style than designer price tags. Entrepreneurship is high among Generation Xers, and they tend to move easily from one employer to another. In contrast to the Boomers, their motto is "work to live" (life/work balance). They can be impatient and need coaching on people skills. Known as the "Me Generation," Gen X has been influenced by the Civil Rights movement, the space program, and Watergate.

Millennials/Gen Y/NeXters (1984-2000) 70 million (10% of the workforce). This group is confident and street-

smart as well as good at multi-tasking in a totally technology-based world. However, this tends to give them a lack of experience in the workplace, especially in people skills. They need and want a strong management and structured work environment. They grew up with the following events: Desert Storm, hostages, domestic terrorism, hi-tech society/Internet/PCs and the AIDS epidemic.

There are some similarities between the different generations. Both Veterans and Millennials like structure and scheduling. Gen X and Millennials share a focus on family and children. These two generations are also technology-literate and multi-taskers. Boomers and Gen X make up the biggest percentage of the workforce (80-85%).

Boomers have a team perspective, are process-oriented, and have a love/hate relationship with authority. Gen X has an individual perspective, is results-oriented, and is unimpressed with authority.

Each generation view their careers differently as well as how the job affects their lives. In addition, their need for feedback and motivation can present a challenge to managers.

How the Generations View their Careers

Veterans – Build a Legacy

Boomers – Build a Stellar Career

Gen Xers – Build a Portable Career

Millennial – Build Parallel Careers

Work/Life Balance

- Veterans – Support me in shifting the balance.
- Boomers – Help me balance everyone else and find meaning myself
- Gen Xers - Give me balance now – not when I am 65
- Millennials – Work is not everything – flexibility to balance my activities

Motivating Tips

- Veterans – Personal touch is best, such as handwritten notes or plaques. They also like to chat and socialize between assigned tasks.
- Boomers – Public recognition and the more the better. Let them prove themselves and their skills and do not forget to challenge them to excel. Reward them for long hours and work ethic.
- Gen X – Give them lots of projects and let them control prioritizing and juggling duties. They also love the latest technology – let them be the tester for new technology or databases for the entire staff.
- Millennials – Ask about their personal goals – and show them how they mesh with the business'

/person's career path.

The generational differences are just one factor affecting the job market. To better understand the workplace of the future, you must first be cognizant of your own perspective. Second, recognize that what is standard or acceptable business behavior to one generation may be viewed in a radically different way by another group. Third, it always helps to have a sense of humor. Remember that

come Jan. 3.

For more fascinating tidbits of information, please contact Lisa Mecklenberg Jackson, legislative librarian, at Ljackson@mt.gov or 444-2957.

THE BACK PAGE

FISCAL NOTES: DON'T LEGISLATE WITHOUT THEM

By Jon Moe, Fiscal Specialist
Legislative Fiscal Division

FISCAL NOTES,¹ A CRITICAL COMPONENT OF THE LEGISLATIVE PROCESS

A representative from eastern Montana introduces legislation to create an advisory council...Ka-ching!

A senator from north-central Montana introduces a bill to provide a revenue source for water projects on the Hi-Line...Ka-ching! Ka-ching!

An interim committee studying health care approves legislation for introduction to expand health care insurance coverage to previously uncovered groups...Ka-ching! Ka-ching! Ka-ching!

The 2007 legislative session is just weeks away. Not all bills that are introduced will have a fiscal impact, but many do. And it is very important for the Legislature to know how much the legislation would cost or how much revenue it would raise if enacted. While state government operates with a sizable budget (\$7 billion total funds for the 2007 biennium), the money available is not unlimited and the Legislature needs to ensure that it does not spend more than it has. The Montana Constitution requires a balanced budget. Article VIII, section 9, states, "Appropriations by the legislature shall not exceed anticipated revenues." In the legislative process, the link between an individual legislative proposal and the understanding by the Legislature of how the proposal impacts the budget is the fiscal note. The fiscal note details the potential fiscal impact of the legislative proposal.

To enable the Legislature to know where it is financially during the legislative session, the Legislative Fiscal Division (LFD) routinely prepares a weekly general fund status sheet, a summary of the fiscal impact of everything the Legislature has done to date. It presents the summary of estimated general fund revenues and potential spending, based upon the decisions made by the Legislature through the course of the session. An important component of the status sheet is the list of fiscal impacts (revenue and expenditures) that are estimated for various legislative proposals. Impacts of legislation affecting other fund sources are also tracked by LFD analysts. These general fund and other fund impacts typically come from the individual "fiscal notes" prepared by the Office of Budget and Program Planning (OBPP), largely with the assistance of the various agencies of state

government whose programs and budgets would be affected by the legislation. Armed with this information, along with the overall estimated revenues and expenditure proposals, the Legislature can decide the fate of all proposals based on its policy goals and objectives and on what it determines the state can or cannot afford.

Fiscal notes are indeed an important component of the legislative process. During the 2005 regular session, 1,441 bills and resolutions were introduced. Of those, 773 had at least one fiscal note prepared and distributed. Think about the type of information that legislators need and the questions answered by a fiscal note:

- Does this bill have a fiscal impact and why?
- Does this bill generate revenue and what kind?
- How much does it cost?
- What kind of expenditures are required (personal services, operating expenses, benefits, etc.)?
- What is the source of funding?
- Is the cost included in the general appropriations act (HB 2)?
- Is it an executive branch proposal?
- How are local governments impacted?
- What happens over the long-term?
- Are there any technical problems or concerns with the bill?
- What is the impact on the general fund balance?

Answering these questions for legislators goes a long way toward informed decision making. Plus, having the fiscal impact questions answered early in the deliberations allows potential cost to be part of the policy debate.

COMMUNICATION IS KEY

The above explains why the fiscal note is important, but clearly the fundamental purpose of a fiscal note is communication. Legislators need to know and understand the fiscal impact of their legislative proposals. Since that information comes from one or more of the many agencies and programs that might be affected, it is critical to have an understandable and consistent process and format for communicating that information. In addition, legislators need to be able to depend upon the accuracy, clarity, and integrity of fiscal notes. Open and honest communication should certainly be the goal.

A MEASURE OF SKEPTICISM IS INHERENT IN THE

¹ A "fiscal note" is a document that accompanies a bill through the legislative process if the bill has a potential fiscal impact on the state or local governments. It is required on bills having an effect on revenues, expenditures, or fiscal liability.

FISCAL NOTE PROCESS

Unfortunately, fiscal notes can be quite controversial which can result in the debate changing from one of public policy to one relating to the accuracy of the information provided in the fiscal note. At times, there are charges of bias in the fiscal note or that the fiscal impact reflected in the fiscal note is incorrect or does not reflect what the bill is intended to do. Sometimes, as indicated in the responses to a recent survey of the Legislature (see below), legislators believe that a state agency may estimate high in order to “kill” a bill that it does not support or low if it wants the bill to pass.

Regardless of whether or not the survey respondents’ comments are fact or perception based upon the note not reflecting what the sponsor expected, the fiscal note process needs to address this issue. Again, communication is the key element in responding to this concern. Communication in this instance would be direct communication between sponsor and the preparer of the fiscal note, or training that will provide legislators a clearer understand of fiscal notes.

FISCAL NOTE WORK GROUP

During every session, there are concerns expressed about fiscal notes. Because of the concerns, which are generally anecdotal, the Legislative Council established a work group this interim to perform a review of the fiscal note process, format, and content. The work group was allowed to take a broad look at the function.

The initial step was to survey the Legislature. Half of the 150 legislators responded. Legislators were asked several questions about their satisfaction with fiscal notes and were asked to provide comments or suggestions about the fiscal note process. Many comments and suggestions were received. The survey responses are summarized in a report that is available upon request or online on the legislative branch website under the Legislative Council webpage².

The survey results generally indicate that most legislators are either highly satisfied (26 percent) or somewhat satisfied (56 percent) with the content, accuracy, objectivity, and timeliness of fiscal notes. Of the four questions that related directly to satisfaction, a “not satisfied” response occurred on average about 16 percent of the time. Most dissatisfaction occurred in responses to the question on objectivity and the least dissatisfaction related to the content of fiscal notes. Overall, comments accompanying the responses of “somewhat satisfied” and “not satisfied” clearly indicated a need for some improvement in fiscal notes. In fact, the comments and suggestion translated easily into a long list of options for the work group and ultimately the Legislative Council to consider. When the work group had completed its work and the Legislative Council was presented their findings, 18 options were accepted for implementation.

LEAVING THE FISCAL NOTE FUNCTION WHERE IT IS

Several legislators suggested that the fiscal note function be moved from the Office of Budget and Program Planning to another agency (presumably the legislative branch). The work group studied this option and decided not make a recommendation for two primary reasons:

- First, the move would require the creation of an office to perform the fiscal note function, at a cost estimated at \$650,000 to \$700,000 each biennium. The cost of establishing a fiscal note office in the legislative branch is based upon an assumption that a full-time staff would be required to ensure the expertise needed. Relying on session-only staff to perform this function would most likely result in difficulty in finding persons with the expertise that is needed, at the time it is needed.
- Second, a change in who prepares the fiscal note would not change the source of the information needed to complete the fiscal note. Although legislative staffs develop considerable knowledge of the agencies and program under their assignments, the data bases and most intimate program knowledge are in the agencies that administer the programs. Agencies would still be the primary source of information about the impacted agencies and programs.

WHAT CHANGES WILL LEGISLATORS SEE?

Some options were fairly minor and others more significant. Collectively, they offer the opportunity for an improved fiscal note product, fiscal notes that are easier to understand because of format and content changes, as well as a Legislature that is better informed regarding fiscal notes. Here are some of the more dramatic changes that legislators will see during the 2007 session (the first two are OBPP initiated enhancements supported by the work group):

- A special fiscal note format for legislation that directly impacts the retirement systems, intended to better present the long term implications and fiscal impacts of such bills
- Two additional fiscal years of fiscal impact on the first page of the fiscal note (for the 2007 session, this would mean that instead of seeing only FY 2008 and FY 2009, the reader would also see FY 2010 and FY 2011)
- Starting the 6-day fiscal note preparation period when bills are “pre-introduced” rather than waiting until the first day of the session, thus allowing more fiscal notes to be ready for hearings earlier in the session and reducing the preparation “crunch” in the first few weeks of the session
- A note on committee reports that indicates that a bill

² The website address is http://www.leg.state.mt.us/css/committees/administration/2005_2006/leg_council/workgroup/fiscalnotewkgrp.asp.

was amended and that a fiscal note (new or revised) is needed, thereby alerting the House or Senate that a fiscal note needs to be requested immediately

- Narrative description up-front in fiscal notes indicating what in the bill results in fiscal impact and/or what occurred that results in a revised fiscal note
- Enhanced fiscal note training for legislators

Two options that were accepted by the Legislative Council will require legislation that is being prepared for the upcoming session:

- A bill to better define the Legislature's expectation for fiscal notes
- A bill to change the rebuttal process for legislators from the preparation of the "sponsor's fiscal note" to completion of a "rebuttal" form on which the sponsor can focus on the portion(s) of the fiscal note with which the sponsor has a disagreement, portions referring to assumptions, calculations, technical problems, etc.

There are other enhancements that are aimed at improving the fiscal note process and timeliness; fiscal note content, accuracy, and clarity; and communication. While these changes might not be as noticeable to legislators and others, they are aimed at improving the satisfaction level of legislators.

UNDERSTANDING THE FISCAL NOTE

Because the survey questions sought the satisfaction level of legislators regarding accuracy, content, objectivity, and timeliness of fiscal notes, most of the comments in the survey responses related directly to these areas of concern. Respondents, most often, indicated that they were not dissatisfied with all fiscal notes, but had experienced a fiscal note or two that they felt were not accurate or objective. This of course raises questions of how a sponsor can seek redress of the problem as they perceive it. The work group was told by OBPP staff that sponsors often visit their office to lobby for a revision to the fiscal note or at least for an explanation of the fiscal impact shown in the fiscal note. OBPP also said that when this occurs, the sponsor almost always leaves with a better understanding of the fiscal note and why the impact occurs. On the other hand, occasionally the sponsor can explain how the bill is not intended to do whatever the fiscal note preparer assumed would occur, resulting in a revision to the fiscal note or an amendment to the bill.

It appears from survey responses, however, that many legislators do not know that they can discuss the fiscal note with OBPP or do not take advantage of this opportunity. The work group and OBPP encourage this practice as it provides a better understanding of the fiscal note.

Making the fiscal note more understandable became a goal of the work group because of the comments and suggestions of survey respondents. It is apparent and was often suggested that more training opportunities need to be made available to legislators (new and veteran) and to the folks that prepare fiscal notes. The Legislative Service Division, in cooperation with OBPP, will be developing additional training strategies, including presentations and written materials that will help legislators understand the fiscal notes better, and to train preparers on the Legislature's expectations of fiscal notes.

REASONABLE EXPECTATIONS OF THE LEGISLATURE

So what should the Legislature expect in a fiscal note? It is important to remember that a fiscal note is an estimate. It is prepared through interpretation of data and the formulation of assumptions. The reliability of the estimate can vary from representing an educated guess because of a lack of pertinent data to being a very logical analytical presentation because there is adequate data. At the same time, the fiscal note is usually the source of an amount ultimately appropriated either in HB 2 or the bill itself, or for an amount included in the estimates of revenue shown in the final general fund status sheet.

- Legislators should be able to easily understand the fiscal note. Besides answering the questions listed earlier, he or she should be able to easily identify, for example, what causes the fiscal impact.
- Legislators should be able to tell the difference between assumptions and facts, and know the basis of the assumptions.
- Legislators should be able to feel confident that the estimate of fiscal impact is the minimum needed to implement the proposal and that it is not "padded" with "nice to have" items.
- Legislators should be able to be confident that the fiscal note is objective and not reflecting the views or opinions of the agency, the administration, the sponsor, or others.
- Legislator should be able to know when data used and the calculation results are uncertain because there is no real experience on which to base assumptions.

The integrity of the fiscal note process depends on these expectations being met. When the information is accurate and is an honest representation of the estimate of fiscal impact, legislators can better understand the fiscal implications of their bill, and if cost is an issue, they might know what to do to their bills to make them more palatable. On the other front, agencies that provide the information for fiscal notes will have better documentation of what was estimated and the source of the data used.

WHAT CAN A LEGISLATOR DO WHEN HE OR SHE FEELS THE FISCAL NOTE IS FLAWED?

Under the current process, the bill sponsor gets the completed fiscal note first and generally has about 24 hours to sign the note or not. If the sponsor disagrees with the fiscal note, here is how he or she might approach it:

- Get with the folks that have been working with you on the proposal and make sure that you can identify and explain how you believe the fiscal note is flawed
- Talk to the appropriate staff person at OBPP to explain your position and to try to understand theirs...the goal being to either understand and be satisfied with how they have determined the impact or to make them understand how they have misunderstood the intent or have misinterpreted the data used in preparing the fiscal note
- In some instances, it may be beneficial to have the agency person that provided the data involved in the conversation
- If you are not satisfied with the outcome of this discussion, then under the current process, you can prepare a sponsor's fiscal note...these are rarely

used but can be a way for getting your position in front of the legislative committee or the full Legislature (as previously mentioned, there is a different procedure being proposed in legislation)

This seems quite simple, but the difficulties come from the time restraints and the availability of the person or persons that you need to contact. Diligence is needed to make sure that you make the contact and get the information you need.

In the end, when the smoke from another legislative session clears, there will be a balanced budget...knock on wood. There will be new laws, and the workings of state government may change in some ways...maybe a very effective new advisory council, maybe a reliable revenue source for water projects, and maybe fewer uninsured citizens. And maybe, just maybe, legislators will feel better about fiscal notes.



INTERIM CALENDAR

UNLESS OTHERWISE SPECIFIED, ALL ROOM DESIGNATIONS ARE IN THE CAPITOL

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
November 2006						
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15 Revenue and Transportation Com- mittee, Room 137, 8 a.m. Legislative Audit Committee, Room 172, 9 a.m.	16 Legislative Audit Committee, Room 172, 8 a.m.	17	18
19	20	21	22	23	24	25
26	27 Legislative Council (tentative) Senate and House party caucuses, noon	28 New Legislator Orientation, all day Legislative Finance Committee, Room 102, 8 a.m. State Administration and Veterans' Affairs Committee,	29 New Legislator Orientation, all day State Administration and Veterans' Affairs Committee, Room 152	30		

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
December 2006						2
3	4	5	6	7	8 LAWS demonstra- tion, Room 102, 10 a.m. to noon	9
10	11 Legislative rules committees, morning Committee chair training, morning	12	13	14	15	16
17	18	19	20 LAWS demonstra- tion, Room 102, 2 p.m. to 4 p.m.	21	22	23
24	25	26	27	28	29	30
31						

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